

AG Contract No. KR94 2692TRN  
ECS File: JPA 94-189  
Project No.: STP-ORV-0(4)P  
TRACS No.: SS327 01C  
Section: LaCanada Drive  
S. Town Limit - Naranja Drive

**INTERGOVERNMENTAL AGREEMENT**

BETWEEN  
THE STATE OF ARIZONA  
AND  
THE TOWN OF ORO VALLEY

THIS AGREEMENT is entered into 17 November, 1994, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the TOWN OF ORO VALLEY, acting by and through its MAYOR and TOWN COUNCIL (the "Town").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-108 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The Town is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the Town.

3. Congress has authorized appropriations for, but not limited to, the construction of streets and primary, feeder and farm-to-market roads; the replacement of bridges; the elimination of roadside obstacles; and the application of pavement markings.

4. Such project within the boundary of the Town has been selected by the Town; the field survey of the project has been completed; and the plans, estimates and specifications have been prepared and, as required, submitted to the Federal Highway Administration (FHWA) for its approval.

---

NO. <u>19163</u>
FILED WITH SECRETARY OF STATE
Date Filed <u>11/17/94</u>
<u>Richard H. Hovak</u> Secretary of State
By <u>Vicky Greenhouse</u>

5. The only interest of the State in the project is in the acquisition of federal funds for the use and benefit of the Town by reason of federal law and regulations under which funds for the project are authorized to be expended.

6. The work embraced by this agreement and the estimated cost are as follows: DESIGN ENGINEERING

Estimated Project Cost	\$ 171,100.00
Federal Aid Funds @ 94.3 % of \$752,850.00	\$ 120,000.00
Oro Valley Funds	\$ 51,100.00

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

## II. SCOPE OF WORK

1. The cost of the analysis and design work covered by this agreement is to be borne by FHWA and the Town, each in the proportion prescribed and determined by FHWA.

2. Therefore, the Town agrees to furnish and provide Town funds in an amount equal to the difference between the total cost of the work provided for in this agreement and the amount of federal aid received.

3. The Town will provide the preliminary engineering and planning studies, the environmental analysis, right-of-way plans, plans and specifications and design of the project. The State will provide design review of the project plans, specifications and related documents, and provide comments which shall be incorporated into the design documents.

4. The Town may request the State, as authorized agent for the Town, and all at Town expense, to perform certain work and prepare certain documents required by the Federal Highway Administration to qualify certain highway, bridge and railroad grade crossing projects for and to receive Federal funds. Such work, consisting of, but not specifically limited to, the review and approval of the Town prepared environmental documents, the preparation of the analysis requirements for documentation of environmental categorical exclusion determinations; review of reports, design plans, maps, and specifications; geologic materials testing and analysis; right-of-way related activities (when specifically authorized by, for and on behalf of the Town, and at no cost to the State) and such other related tasks essential to the achievement of the objectives of this agreement.

5. Should some unforeseen conditions or circumstances increase the cost of said work required, by a change in the extent or scope of the work called for in this agreement, the State shall not be obligated to incur any expenditure in the project.

### III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this agreement. The Town assumes full responsibility for the design, plans, specifications, reports, the engineering in connection therewith and the construction of the improvements contemplated, cost over-runs and construction claims. It is understood and agreed that the State's participation is confined solely to securing federal aid; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the Town and that the Town hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the Town, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, expenses of litigation and attorneys' fees.

2. The cost of the design work covered by this agreement is to be borne by FHWA and the Town, each in the proportion prescribed or as fixed and determined by FHWA as stipulated in this agreement. Therefore, the Town agrees to furnish and provide the difference between the total cost of the work provided for in this agreement and the amount of federal aid received.

3. This agreement shall become effective upon filing with the Secretary of State.

4. This agreement shall remain in force and effect until completion of the work herein embraced; provided, however, that any provisions in this agreement for maintenance shall be perpetual.

5. This agreement shall be cancelled in accordance with Arizona Revised Statutes Section 38-511.

6. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this agreement.

7. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

8. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Department of Transportation  
Joint Project Administration  
205 S. 17th Avenue - 616E  
Phoenix, AZ 85007

Town of Oro Valley  
Town Manager  
11000 N. LaCanada Drive  
Oro Valley, AZ 85737-7015

9. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

TOWN OF ORO VALLEY

STATE OF ARIZONA

Department of Transportation

By Richard S. Parker  
RICHARD PARKER  
Mayor

By Peter L. Eno  
PETER L. ENO  
Contract Administrator

ATTEST:

By Kathryn C. Cuvelier  
KATHRYN CUEVELIER  
Town Clerk

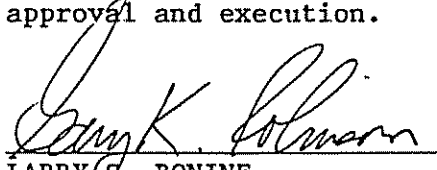
JPA 94-189

RESOLUTION

BE IT RESOLVED on this 20th day of October 1994, that I, the undersigned LARRY S. BONINE, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, to enter into an agreement with the Town of Oro Valley for the purpose of defining responsibilities for the design of improvements to La Canada Drive.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Contract Administrator for approval and execution.

for:

A handwritten signature in cursive script, appearing to read "Larry S. Bonine", written over a horizontal line.

LARRY S. BONINE  
Director

RESOLUTION NO. (R)94 - 31

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA, APPROVING AND AUTHORIZING EXECUTION OF THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF ORO VALLEY THE ARIZONA DEPARTMENT OF TRANSPORTATION (ADOT) COVERING THE FINANCING OF THE PROFESSIONAL CONSULTING CIVIL ENGINEERING DESIGN SERVICES OF LA CANADA DRIVE, SOUTH TOWN BOUNDARY TO NARANJA DRIVE, STP-ORV-0(4)P AND DECLARING AN EMERGENCY

WHEREAS, the Town of Oro Valley is empowered by ARS Sec. 48-572 to enter into this Agreement, and

WHEREAS, Congress has authorized appropriations for, but not limited to, the construction of streets; primary feeder and farm market roads; the placement of bridges; the elimination of roadside obstacles; the application of pavement markings, and

WHEREAS, such Project within the boundary of the Town of Oro Valley has been selected by the Town of Oro Valley and the field survey completed and the Plans, Estimates and Specifications to be prepared and , as required, will be submitted to the Federal Highway Administration for its approval, and

WHEREAS, the Town of Oro Valley, in order to obtain Federal funds for the design of the Project hereinafter mentioned, is willing to provide the State with the Town of Oro Valley funds to match Federal funds in the ratio required or as finally fixed and determined by the Federal Highway Administration, and

WHEREAS, the primary interest of the State in the Project is in the acquisition of Federal funds for the use and benefit of the Town of Oro Valley by reason of Federal law and Regulations under which funds for the Project are authorized to be expended, and

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA, AS FOLLOWS:

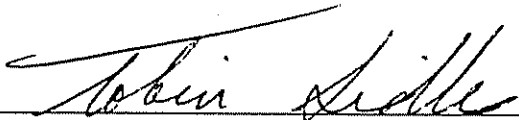
1. That the certain Intergovernmental Agreement, a copy of which is attached hereto as Exhibit "A" by and between the Town of Oro Valley and the Arizona Department of Transportation (ADOT) is hereby approved, and
2. That the Mayor is hereby authorized and directed to execute said Exhibit "A" for and on behalf of the Town of Oro Valley, and that the Town Clerk is hereby authorized and directed to countersign same, and

WHEREAS, it is necessary for the preservation of peace, health and safety of the Town of Oro Valley that this resolution become immediately effective, an emergency is hereby declared to exist and

APPROVAL OF THE ORO VALLEY TOWN ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION and the TOWN OF ORO VALLEY and declare this agreement to be in proper form and within the powers and authority granted to the Town under the laws of the State of Arizona.

DATED this 2 day of November, 1994.

  
\_\_\_\_\_

Town Attorney



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX 85007-2926

MAIN PHONE : 542-5025  
TELECOPIER : 542-4085

GRANT WOODS  
ATTORNEY GENERAL

INTERGOVERNMENTAL AGREEMENT  
DETERMINATION

A. G. Contract No. KR94-2692-TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. §11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 10th day of November, 1994.

GRANT WOODS  
Attorney General

JAMES R. REDPATH  
Assistant Attorney General  
Transportation Section

JRR:lsr  
8661G